

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RALPH CALDWELL,)	
)	
Plaintiff,)	
)	
v.)	4:17-cv-02073-NCC
)	
ST. LOUIS COUNTY, et al.,)	
)	
Defendants.)	

**DEFENDANT’S PROPOSED ORDER APPOINTING NEXT FRIEND FOR MINOR
CLASS MEMBER, APPROVING WRONGFUL DEATH SETTLEMENT, JUDGMENT
AND ORDER OF DISTRIBUTION OF PROCEEDS**

NOW ON THIS ____ day of _____, 2018, this cause comes before this Court for a hearing on the Joint Application for Appointment of Next Friend for Minor Class Member, Approval of Wrongful Death Settlement, and Order of Distribution of Proceeds (“Joint Application”). The parties have submitted the Joint Application, a copy of the Full General Release of All Claims executed by Plaintiff and Counsel for the County, a Full General Release of All Claims executed by decedent’s mother, Carol Vancil, and a Full General Release of All Claims form for Mark Speake, the maternal grandfather and adoptive father of Decedent’s minor son, Eddie Speake.

The parties announce that they have agreed to a compromise settlement of Plaintiff’s causes of action for the death of Michael Kibbons (“Decedent”), and that because of said settlement they have agreed to waive a trial by jury and to submit the settlement made between Plaintiff and St. Louis County to this Court. The Court, having considered the evidence presented and being fully advised, does hereby find as follows:

- (1) Plaintiff's cause of action arises from the death of Decedent Michael Kibbons which occurred on or about June 27, 2015;
- (2) That at the time of his death, Decedent was not married;
- (3) That at the time of his death, Decedent's father was Plaintiff Ralph Caldwell, and Decedent's mother was Carol Vancil, both of whom are and were living;
- (4) That at the time of his death, Decedent had one minor son, Eddie Speake;
- (5) That Decedent was survived by no other offspring;
- (6) That after Decedent's death, Eddie Speake was adopted by his maternal grandfather, Mark Speake, and that Eddie Speake has lived continuously with Mark Speake since before Decedent's death;
- (7) That Ralph Caldwell, Carol Vancil, and Eddie Speake are the only surviving individuals falling within the parameters of Section 537.080.1(1), RSMo;
- (8) That Ralph Caldwell, Carol Vancil, Mark Speake and St. Louis County have agreed upon a settlement whereby St. Louis County has agreed to pay \$60,000 in total for the death of Michael Kibbons. In exchange for the payment, Ralph Caldwell, has agreed to dismiss all claims against employees of St. Louis County with prejudice and to release all claims that they may possess against St. Louis County and its employees as a result of Decedent's death;
- (9) That Plaintiff Ralph Caldwell, Carol Vancil and Mark Speake understand that this action could proceed to trial by jury and that a verdict and judgment in excess of or less than the amount of the proffered settlement could be awarded, but even though this result might be achieved, it is the belief of Ralph Caldwell, Carol Vancil and Mark Speake as next friend of Eddie Speake that the settlement is in their best interest;

(10) That the settlement is fair, reasonable and in the best interest of the minor, Eddie Speake.

(11) That the Court, having examined the evidence in this case, including the Releases, finds the settlement fair and reasonable and approves the settlement;

(12) That the attorneys' fees, together with the expense incurred in connection with the preparation and prosecution of this action and claims as represented by plaintiff's attorneys are reasonable.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

(1) This Court appoints Mark Speake as Next Friend for Eddie Speake for purposes of resolving all claims Eddie Speake may have against Defendant St. Louis County and any of its agents, servants, official, and employees for the death of Michael Kibbons.

(2) This Court finds the settlement of \$60,000 for the death of Michael Kibbons to be fair and reasonable.

(3) The Court hereby approves the settlement of Plaintiff's cause of action and claims resulting from the death of Michael Kibbons, and for all damages, claims or losses suffered by Plaintiff and all class members as a result of said death for the fair and reasonable consideration of \$60,000.

(4) The Court orders Mark Speake to execute a Release on the Exhibit C form on behalf of Eddie Speake.

(5) That the Court, having examined the evidence in this case, including the Releases, finds that settlement proceeds shall be distributed as follows:

(a) Attorneys' fees and expenses in the amount of \$_____ to Plaintiff's Counsel;

- (b) \$_____ to Ralph Caldwell;
- (c) \$_____ to Carol Vancil; and
- (d) \$_____ to Eddie Speake.

- (6) In accordance with Mo. Rev. Stat. § 537.095.3 this Court enters Judgment against St. Louis County and in favor of Plaintiff Ralph Caldwell, Carol Vancil, and Mark Speake as next Friend for Eddie Speak in the amount of \$60,000.00 inclusive of attorneys' fees and costs for the death of Michael Kibbons.
- (7) The Court Orders Plaintiff Ralph Caldwell to dismiss all claims filed in the lawsuit against C.O. Conard and Lt. Anderson with prejudice.
- (8) The Court further orders Plaintiff Ralph Caldwell to executed an acknowledgment of satisfaction of judgment within seven day of receipt of a check by his counsel Gregory Fenlon, made payable to Ralph Caldwell, Carol Vancil, Mark Speake, and Gregory Fenlon.

IT IS SO ORDERED this ____ day of _____, 2018.

NOELLE C. COLLINS
UNITED STATES MAGISTRATE JUDGE